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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,390	07/26/2004	Shigeru Hayakawa	120158	3474
25944	7590	08/15/2007		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER MANAHAN, TODD E	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 08/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/502,390	<b>Applicant(s)</b> HAYAKAWA ET AL.	
	<b>Examiner</b> Todd E. Manahan	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Privas (United States Patent No. 5,417,258) in view of De Laforcade (United States Patent No. 6,000,405).

Privas discloses a container comprising a laminated container body 31 including a rigid outer layer 33 and an inner layer 24 delaminatable therefrom and a cap-like member 50 fitted on the neck portion of the container body. The cap-like member includes a pump cylinder 7 depending therefrom, a stem 9 depending into the pump cylinder and having a lower bottom portion to which a cylindrical piston 18 is provided, and a spring which biases the piston upwardly. The container may contain hair care products (see col. 6, lines 56-59). Privas discloses the invention essentially as claimed except for the hollow comb having a shaft and one or a plurality of discharge orifices. De Laforcade discloses a container for hair care products having a hollow comb 35 having a shaft 36 and a discharge orifice 40 affixed thereto. The shaft has a depression rod 21 protruding laterally outwardly from a lower portion thereof. The container includes a dispensing mechanism which may be a pump (see col. 5, lines 61-66). It would have been obvious to one skilled in the art to form the cap-like member of Privas with a hollow comb

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having a shaft and discharge orifice in view of De Laforcade in order to provide Better, more even application of the hair care product.

Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone (United States Patent No. 4,322,020) in view of De Laforcade (United States Patent No. 6,000,405).

Stone discloses a container comprising a double container body 1 including a rigid outer container 6 and an inner container 2 which is shrinkable upon depressurization and a cap-like member 50 fitted on the neck portion of the container body. The cap-like member includes a pump cylinder depending therefrom, a stem 18 depending into the pump cylinder and having a lower bottom portion to which a cylindrical piston is provided, and a spring which biases the piston upwardly. The container may contain hair care products (see col. 1, lines 13-16). Stone discloses the invention essentially as claimed except for the hollow comb having a shaft and one or a plurality of discharge orifices. De Laforcade discloses a container for hair care products having a hollow comb 35 having a shaft 36 and a discharge orifice 40 affixed thereto. The shaft has a depression rod 21 protruding laterally outwardly from a lower portion thereof. The container includes a dispensing mechanism which may be a pump (see col. 5, lines 61-66). It would have been obvious to one skilled in the art to form the cap-like member of Stone with a hollow comb having a shaft and discharge orifice in view of De Laforcade in order to provide better, more even application of the hair care product.

#### ***Response to Arguments***

Applicant's arguments filed 7 June 2007 have been fully considered but they are not persuasive.

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In response to applicant's arguments that Privas does not disclose the shaft separate from the cap, the examiner acknowledges that Privas does not disclose the shaft which is part of the comb which is why De Laforcade was used under 35 USC 103(a) to teach the comb. In response to applicant's arguments that Privas does not disclose the cylinder extending into the container body, applicant's attention is directed to figure 11 which clearly shows pump cylinder 7 disposed in the container. In response to applicant's arguments that Privas does not disclose the piston biased upwardly, applicant's attention is directed to figure 21 which shows piston 18 biased upwardly by a spring.

In response to applicant's arguments that Stone does not disclose the shaft separate from the cap, the examiner acknowledges that Stone does not disclose the shaft which is part of the comb which is why De Laforcade was used under 35 USC 103(a) to teach the comb. In response to applicant's arguments that Stone does not disclose the cylinder extending into the container body, applicant's attention is directed to figure 3 which clearly shows pump cylinder extending below the bottom of the cap and thus would be disposed in the container.

In response to applicant's arguments that De Laforcade does not disclose the comb being vertically movable with respect to the container body, the claims recite "the cylindrical piston ... vertically movable with respect to the ... container body and cap member" (claim 1, lines 17 and 18; claim 2, lines 20 and 21). The base references of Privas and stone show the vertically movable piston.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is 571 272- 4713. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Rodriguez can be reached on 571 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Todd E. Manahan  
Primary Examiner

